



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/993,468	11/14/2001	Kevin I. Bertness	C382.12-0097	2983

27367 7590 07/13/2006

WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402-3319

EXAMINER

HARVEY, JAMES R

ART UNIT	PAPER NUMBER
----------	--------------

2833

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/993,468

Applicant(s)

BERTNESS, KEVIN I.

Examiner

James R. Harvey

Art Unit

2833

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4 and 9-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4 and 9-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Previous Final Action followed with a second Final Action

The finality of the previous final action is withdrawn in view of the reconsideration of applicant's argument. However, Applicant's amendment to the non-final office action dated 9-13-04 necessitates the new ground(s) of the following rejection presented in this Office action. Accordingly, **THE FOLLOWING ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Claim Cancellations

- The cancellation of claims 2, 5-8 and 14-20 has been made of record.

Claim Objections

- The following claim(s) is/are objected to because of the noted informalities:
- In reference to Claim(s) 1, the recitation to “a surface” has not been identified in applicant's specification or drawings with a numeral so that the public is made aware of what does and does not infringe upon applicant's claim to a surface. For purposes of examination, it is assumed that the language is intended to mean the surface that would touch the battery post. An examination based on the merits, as best understood, is addressed below.
- Claim(s) 3 is/are objected to under 37 C.F.R. Rule 1.75 (d)(1). The terms and the phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description. In

Art Unit: 2833

particular, the recitation the first contact and the second contact oppose each other is not defined in applicant's specification so that it is clear what structure would be equivalent to the recitation of opposed. For purposes of examination, it is assumed that the language is intended to mean facing each other. A rejection on the merits (as best understood) follows.

- Correction is required.

Claim Rejections - 35 USC § 102

- The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**** Claim(s) 1,3,4, 9, 10 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Lowery et al. (6250973).**

In reference to Claim(s) 1; Lowery shows (cover sheet)

a first contact 12 (top) having a surface (same surface that touches the post as understood from applicant's figure 1);

a second contact 12 (bottom) having a surface which conforms to a battery post (column 2, lines 63-65);

an electrical insulator 14 between the first contact and the second contact to mechanically connect the contacts together and to align the surface of the first contact and the surface of the second contact against a surface of such a post and thereby form a Kelvin connection to such post, wherein the first and second contacts form a closed loop around a battery post (column 2, lines 45-47).

In reference to Claim(s) 2, it has been canceled.

In reference to Claim(s) 3, Lowery shows (cover sheet) the first contact and the second contact oppose each other.

In reference to Claim(s) 4, Lowery shows (cover sheet) an insulator support portion 48 (column 3, line 50) which is embedded within the electrical insulator 14; and a post grasping portion 26 on which the surface of the first contact resides.

In reference to Claim(s) 5-8, they have been canceled.

In reference to Claim(s) 9, Lowery shows a first connection bar 18 (top) coupled to the first electrical contact and a second connection bar 18 (bottom) coupled to the second electrical contact.

In reference to Claim(s) 10, Lowery shows (column 4, line 3) the first electrical contact and the second electrical contact are formed from electrically conductive sheet metal.

-- In reference to claim 12, Lowery shows the insulator comprises plastic (column 2, line 44).

Claim Rejections - 35 USC § 103

- The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made

Art Unit: 2833

to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- Claim(s) 11 and 13 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Lowery.

-- In reference to claim 11, Lowery shows substantially the invention as claimed. However, Lowery does not show the first electrical contact and the second electrical contact are copper pieces with solder plating.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to choose the material as copper with solder plating, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416 (CCPA 1960). One skilled in the art would be motivated to choose a material of copper and solder plating because it would be more ecstastically pleasing and make it easier to solder the wire conductor to the metal.

-- In reference to claim 13, Lowery shows substantially the invention as claimed. However, Lowery does not show the insulator comprises a composite material.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to choose the material a composite material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416 (CCPA 1960).

One skilled in the art would be motivated to use a composite material because composite materials are easier to keep clean than other insulators and would be more ecstastically pleasing after years of service.

It is noted that the above rejection was used with the previous reference in the previous rejection.

In reference to Claim(s) 14-20, they have been canceled.

Response to Arguments

-- Applicant's arguments filed in response to the previous office action have been considered, but they are moot in view of the new grounds of rejection.

Conclusion

- Applicant's amendment to the non-final office action dated 9-13-04 necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 2833

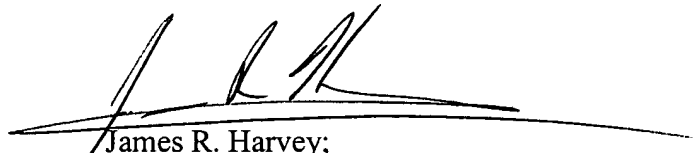
however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

- Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Harvey whose telephone number is 571-272-2007.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paula A. Bradley can be reached on 571-272-2800 extension 33.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2800.

jrh
July 10, 2006



James R. Harvey;
Primary Examiner